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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/980,066	02/27/2002	Johan Drott	GAMBRO-258	5318
530	7590	03/13/2006	EXAMINER	
LERNER, DAVID, LITTENBERG, KRUMHOLZ & MENTLIK 600 SOUTH AVENUE WEST WESTFIELD, NJ 07090			WITCZAK, CATHERINE	
			ART UNIT	PAPER NUMBER
			3767	

DATE MAILED: 03/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/980,066

Applicant(s)

DROTT, JOHAN

Examiner

Catherine N. Witczak

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 March 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 14-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 14-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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DETAILED ACTION

Response to Arguments

Applicant's arguments with respect to claims 14-27 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 14-19, 21, 22, and 28-32 are rejected under 35 U.S.C. 102(b) as being anticipated by Trimarchi (US 5,076,108).

Claim 14: Trimarchi discloses in Figures 2, 6 and 7 an apparatus for measuring a property of a fluid comprising a tube (18) including a lateral access opening (16), a domed portion (curve in 18) including a sealing surface on outer wall (58), and a sealingly disposed sensor (52) for direct contact with the fluid in the tube (18).

Claim 15: Trimarchi discloses in Figure 6 the sealing surface (58) comprising a level surface.

Claim 16: Trimarchi discloses in Figure 6 the domed portion comprising a bend in the entire tube (18).

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Claim 17: Trimarchi discloses in Figure 6 the domed portion comprising a bulge on one side of the tube (18).

Claim 18: Trimarchi discloses in Figure 6 the sealing surface (58) comprising the wall of the tube (18).

Claim 19: Trimarchi discloses in Figure 6 an adhering means (24) for adhering the sensor (52) to the sealing surface (58).

Claim 21: Trimarchi discloses in Figure 6 a leveled off planar portion (into which 58 is disposed) of tube (18) providing a lateral access opening.

Claim 22: Trimarchi discloses in Figure 6 the leveled off planar portion comprising a ground off portion.

Claim 28: Trimarchi discloses in Figures 2, 6 and 7 an apparatus for measuring a property of a fluid comprising a tube (18) including a lateral access opening (16), a domed portion (curve in 18) including a sealing surface on outer wall (58), and a sensor (52) in direct contact with lateral access opening that is in direct contact with the fluid in the tube (18).

Claims 29 and 31: Trimarchi discloses in Figures 2 and 6 the sealing surface (58) comprising a cut-away portion (16) of domed portion of tube (18) providing a substantially flat sealing surface on outer wall of the tube (18).

Claims 30 and 32: Trimarchi discloses in Figure 6 that the sensor (52) does not extend with the tube in a manner significantly reducing the cross sectional area of the tube.

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Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:


(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Trimarchi as modified by Uramachi et al (US 6,240,775).

Trimarchi discloses the claimed invention except for the probe being a temperature, pressure, low or conductivity sensor. Uramachi et al teach that it is known to use a temperature and flow sensor as set forth in the abstract. Uramachi et al do not explicitly state why they are used, but it appears that they are used to be able to measure the temperature and flow of a fluid flowing through a tube. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system as taught by Trimarchi with a temperature and/or flow sensor as taught by Uramachi et al, since such a modification would provide the system with sensors capable of detecting the temperature and flow rate of a fluid flowing through a tube.

3. Claims 23, 24, 25, and 26 rejected under 35 U.S.C. 103(a) as being unpatentable over Trimarchi as modified by Abrams (US 4,613,325).

Trimarchi discloses the claimed invention except for disclosing the tube being either elastic, flexible, or rigid, and made out of glass, plastic, or metal. Abrams teaches that it is known to use elastic, flexible, or rigid tubes made out of glass, plastic, or metal in column 17, lines 14-19 to allow for the use of a tube of variable stiffness and material depending on need. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system as taught by Trimarchi



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with the tube being either elastic, flexible, or rigid, and made out of glass, plastic, or metal as taught by Abrams, since such a modification would allow for the use of a tube of variable stiffness and material depending on need.

4. Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Trimarchi as modified by Karlsson (US 5,741,284).

Trimarchi discloses the claimed invention except for it being used in a dialysis monitor. Karlsson teaches that it is known to use a sensor in direct contact with fluid in a dialysis monitor in column 1, lines 10-16 in order to analyze liquids for microdialysis purposes (column 1, lines 10-20). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system as taught by Trimarchi by using it in a dialysis monitor, since such a modification would provide the system with a way of analyzing liquids for microdialysis purposes.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Catherine N. Witzak whose telephone number is (571) 272-7179. The examiner can normally be reached on Monday through Friday, 8-5 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Hayes can be reached on (571) 272-4959. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Catherine Witzak
Junior Examiner
Art Unit 3767

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M J Hayes

MICHAEL J. HAYES
PRIMARY EXAMINER